

In the

SUPREME COURT OF MISSOURI

En Banc

May Session, 2009

**Report of the Office of the Chief Disciplinary Counsel for the year
2008 together with the Financial Report of the Treasurer of the
Advisory Committee Fund for 2008**

**ALAN D. PRATZEL
Chief Disciplinary Counsel**

IN THE
SUPREME COURT OF MISSOURI
EN BANC

MAY SESSION, 2009

REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE
YEAR 2008 TOGETHER WITH THE FINANCIAL REPORT OF THE
TREASURER OF THE ADVISORY COMMITTEE FUND FOR 2008

To the Honorable Judges of The Court:

Comes now the Office of Chief Disciplinary Counsel, and respectfully reports to the Court on matters concluded during calendar year 2008 or pending on December 31, 2008.

I.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE TAKEN BY
THE COURT DURING 2008 BASED ON PROCEEDINGS
PROSECUTED BY THE OFFICE OF
CHIEF DISCIPLINARY COUNSEL¹**

ALLEN, MICHAEL ROBERT, St. Louis, MO, Missouri Bar #32766

Default Disbarment: Violation of Rules 4-1.3, 4-5.5(e), and 4-8.1(c). Date of Order: November 21, 2008.

ALDERFER JR., WILLIAM KENNETH, Florissant, MO, Missouri Bar #39552

Suspended from the practice of law and no petition for reinstatement will be entertained by the Court for a period of four years: Violation of Rules 4-1.1, 4-1.3, 4-5.5, and 4-8.4. Date of Order: August 15, 2008.

ALIG, DAVID RICHARD, Overland Park, KS, Missouri Bar #29219

Public Reprimand: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.5(a), 4-5.5(a), and 4-8.4(d). Date of Order: January 9, 2008.

BALZER, ROLAND N., St. Louis, MO, Missouri Bar #32025

Default Disbarment: Violation of Rules 4-5.5(c), 4-8.1(b), and 4-8.4(d). Date of Order: May 5, 2008.

BELZ, MARK, St. Louis, MO, Missouri Bar #27420

Suspended from the practice of law without leave to apply for reinstatement for three years: Violation of Rules 4-1.15(a), 4-8.4(c), and 4-8.4(d). Date of Order: August 1, 2008.

BLUM, MICHAEL WAYNE, Columbia, MO, Missouri Bar #47278

Default Disbarment: Violation – in default pursuant to Rule 5.13. Date of Order: November 25, 2008.

Order of disbarment issued November 25, 2008, vacated. Respondent granted leave to file an answer with the Disciplinary Hearing Panel within 30 days of the order. Date of Order: December 16, 2008.

CHAMPAGNE, LYELL HARMON, St. Louis, MO, Missouri Bar #44083

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, and 4-8.1. Date of Order: December 24, 2008.

¹ Often there are attorneys with the same or similar names. It is important to note the bar number and location of the individual.

COLEMAN, LARRY DELANO, Kansas City, MO, Missouri Bar #27575

Public Reprimand: Violation of Rules 4-1.3, 4-1.5, and 4-8.4(d). Date of Order: April 15, 2008.

COOPER, NATHAN DEMILLE, Cape Girardeau, MO, Missouri Bar #51443

Disbarment. Rule 5.21 (Criminal Conviction). Date of Order: January 7, 2008.

CUMMINGS, HENRY W., St. Charles, MO, Missouri Bar #24753

Interim suspension from the practice of law pursuant to provisions of Rule 5.23(b). Date of Order: June 4, 2008.

DALTON II, DAVID ALLEN, St. Peters, MO, Missouri Bar #36596

Suspended from the practice of law and no petition for reinstatement will be entertained by the Court for a period of one year: Violation of Rules 4-1.4, 4-3.5, 4-4.1, 4-5.1(b), 4-5.1(c), 4-8.4(c), 4-8.4(d), and 4-8.4(e). Date of Order: March 6, 2008.

Court's Order modified so that Respondent is suspended from the practice of law for a period of one year from March 6, 2008, suspension stayed, placed on probation through December 31, 2009. Date of Order: December 16, 2008.

DESSELLE, HARLEY KENT, Lee's Summit, MO, Missouri Bar #23819

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: December 16, 2008. Amended Interim Suspension Order: December 22, 2008.

DICKHAUS, KARL WALTER, St. Louis, MO, Missouri Bar #47951

Suspended from the practice of law and no petition for reinstatement will be entertained by the Court for a period of six months: Violation of Rules 4-1.3, 4-1.4, 4-1.7(b), and 4-8.1(c). Date of Order: July 21, 2008.

DODS, JOHN CLAYTON, North Kansas City, MO, Missouri Bar #41594

Public Reprimand: Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.15, 4-8.1, and 4-8.4. Date of Order: July 15, 2008.

Default Disbarment: Violation of Rules 4-1.3, 4-1.5, 4-8.1(b), and 4-8.4(c)(d). Date of Order: December 8, 2008.

DUCEY JR., CORNELIUS THOMAS, Belleville, IL, Missouri Bar #40865

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – Illinois); Violation of Rules 4-1.3, 4-1.4(a)(b), 4-1.9(a), 4-8.4(c)(d). Date of Order: January 8, 2008.

FISHER, THOMAS MICHAEL, Hickory, NC, Missouri Bar #52331

Suspended from the practice of law: Violation of Rules 4-8.1(a)(b), and 4-8.4(c). Date of Order: September 30, 2008.

FLUHR, AURORA MOZELLE, St. Louis, MO, Missouri Bar #52490

Default Disbarment: Violation – in default pursuant to Rule 5.13. Date of Order: October 20, 2008.

Respondent's motion to set aside order of default disbarment sustained.

Respondent granted leave to file an answer with the Chair of the Advisory Committee within 30 days of the order. Date of Order: November 4, 2008.

GREER, BRIAN C., Greenwood, MO, Missouri Bar #52197

Default Disbarment: Violation – in default pursuant to Rule 5.13. Date of Order: July 23, 2008.

Order of disbarment issued on July 23, 2008, set aside. Respondent granted until August 28, 2008, to file an answer with the Chair of the Advisory Committee. Date of Order: July 29, 2008.

HARPSTER, DAWN RENEE, Kidder, MO, Missouri Bar #46456

Disbarment: Rule 5.21 (Criminal Conviction); Violation of Rule 4-8.4(b).

Date of Order: November 6, 2008. Supreme Court No. SC89693

Pending disciplinary case Dismissed as Moot on November 13, 2008.

Supreme Court No. SC88378

HASTY JR., PAUL PAXTON, Overland Park, KS, Missouri Bar #34470

Public Reprimand: Violation of Rules 4-1.3 and 4-1.4(a). Date of Order: November 13, 2008.

HOPKINS, MARY K., Kansas City, MO, Missouri Bar #32007

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: May 6, 2008.

JOHNSON, DAVID H., Kansas City, MO, Missouri Bar #23466

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.3, 4-1.4, and 4-8.1. Date of Order: February 1, 2008.

KENNARD, CARLTON WADE, Pittsburg, KS, Missouri Bar #47650

Default Disbarment: Violation of Rules 4-1.3, 4-1.15, 4-3.2, 4-3.4(d), and 4-8.4(c)(d). Date of Order: December 8, 2008.

KING JR., PAUL SCOTT, Clarkson Valley, MO, Missouri Bar #33485

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: June 24, 2008.

KING JR., ROY, Kansas City, MO, Missouri Bar #35005

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.1, 4-1.4, and 4-8.4(d). Date of Order: December 16, 2008. Related disciplinary case Dismissed without Prejudice on July 7, 2008.

KUSTER, MICHAEL JOSEPH, Jefferson City, MO, Missouri Bar #32839

Default Disbarment: Violation – in default pursuant to Rule 5.13. Date of Order: March 6, 2008.

Respondent's motion to vacate order of disbarment and reinstate license and refer matter to the Office of Chief Disciplinary Counsel for further investigations and otherwise appropriate actions sustained. Order of disbarment issued on March 6, 2008, set aside. Respondent granted until April 24, 2008, to file an answer to the information with the Disciplinary Hearing Panel. Date of Order: March 25, 2008.

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-8.1(c), and 4-8.4(a). Date of Order: November 13, 2008.

LAWSON, MICHAEL SCOTT, Lee's Summit, MO, Missouri Bar #47711

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-8.4(c)(d). Date of Order: January 2, 2008.

LEWRIGHT, JOHN A., Cassville, MO, Missouri Bar #30484

Public Reprimand: Violation of Rule 4-1.3. Date of Order: December 11, 2008.

MANDELBAUM, DAVID BEN, Leawood, KS, Missouri Bar #35420

Public Reprimand: Violation of Rules 4-1.7(a) and 4-1.8(b). Date of Order: January 4, 2008.

MARKOWITZ, DANIEL JOSEPH, Overland Park, KS, Missouri Bar #33109

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.7, 4-1.15, 4-1.16(a)(2), 4-1.16(d), 4-8.1, 4-8.4(d), and 6.01(b). Date of Order: June 4, 2008.

MARTIN III, FREDERICK WILLIAM, West Plains, MO, Missouri Bar #26573

Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15(a)(b), and 4-8.4(c). Date of Order: April 15, 2008.

MARTIN, JAMES M., St. Louis, MO, Missouri Bar #21297

Public Reprimand: Violation of Rules 4-1.3, 4-1.4, 4-1.5(c), and 4-8.1. Date of Order: April 15, 2008.

MCGEE, ROBERT DEAN, Springfield, MO, Missouri Bar #35049

Public Reprimand: Violation of Rules 4-1.3, 4-1.4, and 4-1.15. Date of Order: August 13, 2008.

MCSHANE, BRANDY MELLISSA, Springfield, MO, Missouri Bar #44606

Default Disbarment: Violation – in default pursuant to Rule 5.13. Date of Order: February 13, 2008.

Respondent's motion to set aside default disbarment sustained. Disbarment order issued on February 13, 2008, set aside. Respondent granted until April 30, 2008, to file an answer with the Advisory Committee. Date of Order: March 31, 2008.

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.3, 4-1.4, and 4-8.1. Date of Order: November 25, 2008.

MERRYMAN, WILLIAM R., Kansas City, MO, Missouri Bar #26302

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.15(b), 4-1.16(d), and 4-4.5. Date of Order: February 19, 2008.

PURDY, DAN K., Osceola, MO, Missouri Bar #18694

Suspension, suspension stayed, placed on probation for two years: Violation of Rule 4-8.4(c). Date of Order: November 24, 2008.

REDMAN, YI-LING, Kansas City, MO, Missouri Bar #48020

Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.15(a)(b)(d), 4-1.16(d), 4-3.2, 4-5.3, 4-5.3(c)(1)(2), 4-5.4, 4-8.1, 4-8.1(b), and 4-8.4(b)(c)(d). Date of Order: October 17, 2008.

REYNOLDS, SUSAN E., St. Louis, MO, Missouri Bar #21139

Public Reprimand: Violation of Rules 4-1.4(b) and 4-8.1(a). Date of Order: June 24, 2008.

RIVES, WARREN STEVEN, Lake Ozark, MO, Missouri Bar #41425

Suspended from the practice of law and no petition for reinstatement will be entertained by the Court for a period of six months: Violation of Rule 4-8.4(b). Date of Order: September 30, 2008.

ROMIOUS, D. CARLOS, Kansas City, MO, Missouri Bar #46749

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: August 6, 2008.

SALMON, STEVEN BRETT, Gladstone, MO, Missouri Bar #40640

Public Reprimand: Violation of Rules 4-8.3(b) and 4-8.4(d). Date of Order: January 31, 2008.

SELBY, MICHAEL LEE, Columbia, MO, Missouri Bar #55174

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5(a), 4-1.15(b), 4-1.16(d), 4-8.1(c), and 4-8.4(c). Date of Order: April 28, 2008.

SHKLAR, MARK ALAN, St. Louis, MO, Missouri Bar #24966

Disbarment: Rule 5.21 (Criminal Conviction); Violation of Rule 4-8.4(b). Date of Order: December 23, 2008.

SPENCE, SUSAN FELICIA, Clever, MO, Missouri Bar #32017

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.15, and 4-8.1. Date of Order: February 6, 2008.

STARK, GARY EUGENE, Anna, IL, Missouri Bar #52543

Default Disbarment: Violation – in default pursuant to Rule 5.13. Date of Order: December 10, 2008.

(Respondent's motion to vacate or set aside order of default disbarment sustained. Order of disbarment issued on December 10, 2008, vacated.

Respondent granted thirty days to file an answer with the Chair of the Advisory Committee. Date of Order: February 11, 2009.)

SWAFFORD, MICHAEL RAY, Clayton, MO, Missouri Bar #27921

Public Reprimand: Violation of Rules 4-1.1, 4-1.4, 4-1.7(b), and 4-8.4(a). Date of Order: September 12, 2008.

SWENSEN, MICHAEL FREDERICK, Long Lake, MN, Missouri Bar #43129

Disbarment: Rule 5.20 (Reciprocal – Minnesota); Violation of Rules 4-1.8(a) and 4-8.4(c). Date of Order: March 25, 2008.

THIEWES, RONALD C., Kansas City, MO, Missouri Bar #25095

Public Reprimand: Violation of Rules 4-1.1 and 4-1.7(b). Date of Order: July 30, 2008.

THORNHILL, MATTHEW E.P., St. Charles, MO, Missouri Bar #43283

Public Reprimand: Violation of Rules 4-1.11 and 4-8.4(a). Date of Order: September 30, 2008.

TLUSCIK, RUSSELL EDMUND, Claycomo, MO, Missouri Bar #34493

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-8.1(c), and 4-8.4(c)(d). Date of Order: September 12, 2008.

TOTH, TIMOTHY ALLEN, Blue Springs, MO, Missouri Bar #41882

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.3, 4-3.2, and 4-8.4(d). Date of Order: July 14, 2008.

VANMETER, JONATHAN TABB, Leawood, KS, Missouri Bar #52044

Disbarment: Rule 5.21 (Criminal Conviction); Violation of Rule 4-8.4(b). Date of Order: September 30, 2008.

VERETT, AMANDA KELTON BRADLEY, Edwardsville, IL, MO Bar #56488

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months from October 8, 2008: Rule 5.20 (Reciprocal – Illinois); Violation of Rules 4-3.3(d), 4-8.1(a), and 4-8.4(c)(d). Date of Order: December 16, 2008.

WALSH IV, EDWARD FRANCIS, Kansas City, MO, Missouri Bar #45046

Suspended from the practice of law and no petition for reinstatement will be entertained by the Court for a period of one year from May 16, 2008: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-3.4(f), 4-4.1, and 4-8.4(d). Date of Order: September 30, 2008.

WASHBURN, SCOTT AARON, Chillicothe, MO, Missouri Bar #52049

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-1.15, and 4-8.4(b)(c). Date of Order: March 31, 2008.

WHITWORTH, DANIEL D., Joplin, MO, Missouri Bar #28775

Public Reprimand: Violation of Rules 4-1.4 and 4-1.5. Date of Order: July 3, 2008.

WILLIAMS SR., DERRICK REUBEN, Florissant, MO, Missouri Bar #53416

Probation terminated pursuant to Rule 5.225, suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a

period of one year: Violation of Rules 4-8.1(b) and 4-8.4(d). Date of Order: January 4, 2008.

WONDER, ROBERT EMIL, Kansas City, MO, Missouri Bar #29802

Public Reprimand: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-3.2, and 4-3.3. Date of Order: June 24, 2008.

II.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE PENDING
BEFORE THE COURT AT THE CLOSE OF 2008 BASED ON
PROCEEDINGS PROSECUTED BY THE OFFICE OF
CHIEF DISCIPLINARY COUNSEL**

CARTER JR., FRANK N., St. Louis, MO, Missouri Bar #20099

(Surrendered license and disbarred: Violation of Rules 4-1.5(c), 4-1.15(f), and 4-8.4(c). Date of Order: January 9, 2009.)

COLEMAN, LARRY DELANO, Kansas City, MO, Missouri Bar #27575

Pending

DOWELL, DOUGLAS WAYNE, Lee's Summit, MO, Missouri Bar #54678

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of three years: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.3, 4-1.4(a), 4-1.15, 4-4.1(a), and 4-8.1(c). Date of Order: February 11, 2009.)

FOSTER, JANELL ROSE, Wichita, KS, Missouri Bar #30268

(Surrendered license and disbarred: Violation of Rules 4-1.15 and 4-8.4(c). Date of Order: June 4, 2009.)

FRAHM, CHARLES THEODORE, Lenexa, KS, Missouri Bar #34859

(Suspended, suspension stayed, placed on probation for six months. Date of Order: March 31, 2009.)

HENRY, SUSAN L., Macon, MO, Missouri Bar #43044

(Suspended, suspension stayed, placed on probation for six months: Violation of Rules 4-1.3, 4-1.4(a), and 4-8.4(d). Date of Order: February 13, 2009.)

MADISON, JAMES TRACY, Kansas City, MO, Missouri Bar #48405

(Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months. Date of Order: May 22, 2009.)

O'SULLIVAN, WILLIAM F., Kansas City, MO, Missouri Bar #23384

(Motion for final order of discipline pursuant to Rule 5.21 overruled on January 27, 2009.)

ZINK, BRIAN EDWARD, St. Charles, MO, Missouri Bar #44563

(Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-1.4(a), 4-4.1, and 4-8.4(c)(e). Date of Order: March 31, 2009.)

III. REINSTATEMENT PROCEEDINGS

A. DISCIPLINARY MATTERS

At the beginning of the year, 7 Missouri lawyers who had previously been disciplined had applications for reinstatement pending for processing by the Chief Disciplinary Counsel. During the year 6 additional applications for reinstatement were filed and referred to the Chief Disciplinary Counsel for processing. The OCDC processed a total of 13 disciplinary reinstatement applications during 2008.

The status of those 13 applications is as follows:

Reinstated	4
Denied	1
Dismissed	4
Pending with OCDC	4

Four Disciplined Petitioners Were Reinstated By The Supreme Court

1. Steven Edward Dyer, Eureka, MO, Missouri Bar #45397, reinstated on June 24, 2008, and placed on probation for a period of two years. Petitioner was suspended on December 21, 2004.
2. Collette Nicole Lewis, St. Louis, MO, Missouri Bar #50820, reinstated on June 30, 2008. Petitioner was suspended on November 9, 2007.
3. Eric Erfan Vickers, St. Louis, MO, Missouri Bar #31784, reinstated on June 24, 2008, and placed on probation for a period of one year. Petitioner was suspended on November 29, 1999.
4. Patrick Andrew Woodley, Butler, MO, Missouri Bar #31459, reinstated on October 9, 2008, and placed on probation for three years. Petitioner was suspended on an interim basis on April 14, 2006. Petitioner was then suspended on November 21, 2006.

One Disciplined Petitioner Was Denied Reinstatement By The Supreme Court

1. John Lyng, Missouri Bar #22635, denied reinstatement. Petitioner was disbarred on June 29, 1993.

Four Petitions Were Dismissed By The Supreme Court

1. Michael Trent Stites, Missouri Bar #48863, cause dismissed on May 21, 2008. Petitioner was suspended on May 27, 2003.
2. Stanley Loris Wiles, Missouri Bar #21807, cause dismissed on January 28, 2008. Petitioner was suspended on September 20, 2005.
3. Stanley Loris Wiles, Missouri Bar #21807, cause dismissed on December 12, 2008. Petitioner was suspended on September 20, 2005.
4. John William Zimmerman, Missouri Bar #31720, cause dismissed on June 10, 2008. Petitioner was disbarred on June 30, 1994.

B. NON-DISCIPLINARY REINSTATEMENTS

Lawyers may be automatically suspended under Rule 6.01(f) upon non-payment of annual enrollment fees. If their non-payment exceeds three years, they must apply for reinstatement under Rule 5.28. In 2008, the OCDC investigated and processed 10 applications for reinstatement by those lawyers. Eight were reinstated. Two applications remained pending at the end of 2008.

Lawyers may elect to become inactive under Rule 6.03. Per Rule 6.06, the OCDC investigated and processed 22 inactive lawyers' applications. Nineteen were returned to active status. One application was dismissed by order of the Court, and two applications remained pending at the end of 2008.

Lawyers may be automatically suspended for state tax issues under Rule 5.245. During 2008, the OCDC investigated and processed four tax suspension applications for reinstatement. Three were reinstated. One application was denied by the Court.

IV. COMPLAINTS RECEIVED AND ACTED UPON IN 2008

2,362 complaints of attorney misconduct were received in 2008.

During 2008, the following actions were taken on complaints received:

- 757** Formal Investigations opened
 - 550** Cases investigated by Regional Disciplinary Committees
 - 207** Cases investigated by OCDC
- 92** Cases placed in the OCDC's Informal Resolution Program
 - [*See Paragraph A (below)]
- 1,121** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 144 complaints were provided a further review and response by senior OCDC staff, following complainants' requests. Some of those reviews led to an investigation being opened.
- 163** Insufficient information to proceed
- 58** Referred to Fee Dispute Committees
- 39** Referred to Complaint Resolution Committee (*See *Missouri Bar Complaint Resolution Activity Report attached.*)
- 15** Placed in "Inquiry" status (*These cases were not opened but were monitored to determine whether an investigation should be opened in the future.*)

A. Informal Resolution Program

In this program, intake counsel assigns appropriate cases to a paralegal to contact the complainant, the respondent, or both, to assist in resolving the complaint rather than proceeding with a formal investigation. The program is used most often in response to complaints that the client has not had adequate communication from the lawyer or where the client has been unable to obtain file documents. It may also be used in a case where the complainant has trouble articulating the nature of the complaint, or seems confused about the lawyer's responsibilities or the legal process. The program has been successful in reducing complaint processing time while

preserving the attorney/client relationship. Most cases in the program were resolved without opening an investigation.

B. Advisory Committee Review

Rule 5.12 permits complainants to seek review by the Advisory Committee in cases in which the OCDC or a Regional Disciplinary Committee investigates and finds no probable cause that a violation occurred. In 2008, 79 complainants requested review. The Advisory Committee upheld the findings on 37 of these files but issued cautionary letters to 6 lawyers. The Committee assigned 23 of the review files for further investigation. Thirty review files were pending with the Committee at the end of the year.

C. Fee Disputes

The Missouri Bar, Kansas City Metropolitan Bar Association and the Bar Association of Metropolitan St. Louis continued to provide fee dispute resolution programs. These programs are valuable to lawyers and legal consumers by providing a forum for fee-related complaints to be addressed through a non-disciplinary structure. During the year, 58 complainants were referred to Fee Dispute Committees.

V. DISCIPLINE ACTION INITIATED

A. Admonitions

The OCDC administered 46 written admonitions and the Regional Disciplinary Committees administered 61 written admonitions to Missouri lawyers. (Total: 107 admonitions). In addition, 96 cautionary letters were sent to lawyers by OCDC and the Regional Committees. Cautionary letters are not disciplinary action, but are used to educate the attorney on ethical responsibilities or to alert the attorney that a particular course of conduct, if unchecked in the future, may cause additional complaints to be filed.

B. Investigation Summary

Region	Investigations Pending 1/1/08	Investigations Referred 2008	Investigations Disposed in 2008
IV	79	167	178
X	113	195	216
XI	46	123	129
XV	52	65	90
OCDC	112	299*	316*

* Includes Informal Resolution

Region	Admonitions Issued in 2008	Cautionary Letters Issued in 2008
IV	22	21
X	14	19
XI	15	7
XV	10	10
OCDC	46	39

C. Filed Hearing Matters

FILING INFORMATIONS

In 2008, the OCDC and the Regional Disciplinary Committees filed 43 Informations (the formal charging document) on 103 files. “Files” indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Twenty-two Informations, representing 57 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2008. Disciplinary Hearing Panels conducted 25 hearings involving 58 files. Default Informations were filed directly in the Supreme Court against 16 attorneys. Of these 16 defaults, six were later set aside on motion of the attorney.

D. Cases filed at the Supreme Court

RULE 5.19

Informant's briefs were filed pursuant to Rule 5.19(d), in the Supreme Court in eight cases in 2008. Of those eight cases, seven were heard because the Respondent did not concur in a DHP's recommended sanction and one was heard because the Informant did not concur in a DHP's recommended sanction. In addition, Informant's reply briefs were filed in four cases. Seven disciplinary cases appeared on the Court's oral argument calendar in 2008.

RULE 5.20

Six reciprocal discipline cases, based on adjudications of misconduct in other jurisdictions, were filed in 2008: *In re Bradley Verett*, SC89661, *In re Dowell*, SC89813, *In re Swensen*, SC89132, *In re Toth*, SC89360, *In re Walsh*, SC89436, and *In re Wonder*, SC89248.

RULE 5.21

Informations were filed under Rule 5.21 against eight attorneys who had pled guilty, had been found guilty, or pled nolo contendere to violations of criminal laws: *In re Cooper*, SC89042, *In re Frahm*, SC89822, *In re Harpster*, SC89693, *In re Hopkins*, SC89163, *In re King*, SC89372, *In re O'Sullivan*, SC89815, *In re Rives*, SC89188, and *In re Shklar*, SC89816. *In re Rives*, SC89188, was briefed and argued to the Court.

RULE 5.24

Two Informations requesting interim suspensions for threat of harm were filed in 2008: *In re Desselle*, SC89787, and *In re Romious*, SC89506.

RULE 5.25

In 2008, two attorneys applied to surrender their licenses under Rule 5.25. The OCDC filed Reports and Recommendations on each of these cases: *In re Carter*, SC89837, and *In re Foster*, SC89646.

VI. LAWYER MONITORING

OCDC staff monitor lawyers' practice in four circumstances, all intended to improve the lawyers' likelihood of maintaining a successful practice and protecting the public. In 2008, the office monitored 16 lawyers in the disciplinary diversion program established by Rule 5.105. The diversion program was created to help first offenders who have engaged in relatively minor rule violations.

Twenty-seven lawyers were monitored in 2008 while on probation under Rule 5.225, the rule permitting probation for suspended lawyers whose conduct did not warrant disbarment. Also, the office was asked by the Missouri Supreme Court and Missouri Board of Law Examiners in 2008 to monitor the practice of 9 newly admitted lawyers. Finally in 2008, the office monitored the practice of 9 lawyers who have been reinstated subject to an order of probation.

VII. UNAUTHORIZED PRACTICE OF LAW

The Office of Chief Disciplinary Counsel opened complaint files on approximately 35 individuals and organizations alleged to have engaged in the unlawful practice of law.

Some of these cases were referred to local prosecuting attorneys or to the Consumer Protection Division of the Missouri Attorney General's office. Others were resolved through communication with the company or individual.

Due to the workload and staff resources of OCDC, the office limited its efforts to conducting in-depth investigations only when there appeared to be widespread consumer fraud occurring. Where appropriate, the office conducted investigations of complaints, and the office referred the materials to law enforcement for criminal prosecution as OCDC is only authorized to seek a civil injunction against a party for engaging in the unauthorized practice of law.

VIII. PRESENTATIONS BY OCDC STAFF

During 2008, OCDC staff gave 30 presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: Circuit Clerk Training; Cole County Bar Association; Lawyers Association of Kansas City; Missouri Paralegal Association; Regional Committee Training Meetings; Springfield Metropolitan Bar Association; University of Missouri-Kansas City; University of Missouri Law School; Washington University; William Woods University; and the National Organization of Bar Counsel. The OCDC staff also spoke at the Missouri Bar Annual Meeting, several Missouri Bar

telephone CLE's, the Solo and Small Firm Conference, and many other CLE presentations, sponsored by the Missouri Bar and other organizations.

IX. SIGNIFICANT ACTIVITIES IN 2008

Disciplinary Case Processing

The OCDC previously established a timeline standard for pending investigation cases that seeks to complete 75% of investigations within six months and 90% within one year. The OCDC and the disciplinary system met the timeline standard throughout 2008.

Policy regarding Frequent Complaint Recipients

The OCDC devotes a significant amount of its resources to complaints against attorneys who are frequent complaint recipients (FCR attorneys). In an attempt to address this issue, the OCDC has adopted a policy intended to identify and meet with FCR attorneys in order to discuss and address law practice management issues and other issues affecting the FCR attorney that might be contributing to client complaints. In addition, the meetings are intended to inform the FCR attorney regarding the disciplinary process and the system of progressive discipline adhered to by the Supreme Court and the OCDC. During 2008, the Chief Disciplinary Counsel met with 26 lawyers pursuant to the FCR policy.

Practice Management Course

In 2007, with the approval of the Missouri Supreme Court, the OCDC began working with The Missouri Bar to develop a comprehensive program to address the issues raised by the lack of law practice management skills among some members of the Bar whose clients have repeatedly complained. This cooperative effort resulted in the development of a two-day Practice Management Course staffed by a distinguished faculty of lawyers from around the state. The course was initially offered in two sessions in Kansas City and St. Louis in fall 2008. Forty-two (42) lawyers attended the course in 2008. The OCDC continues to periodically contact and provide ongoing support for the participants.

Scanning/Paperless Office Project

In an effort to increase system efficiency and to reduce investigative expenses, the OCDC instituted a paperless system of complaint processing utilized by the OCDC and the Regional Disciplinary Committees in Kansas City, St. Louis and Springfield. Under the system, initiated in October 2008, complaints and other

externally-received documents are scanned at the OCDC for processing by staff counsel. To the extent that investigative files are being processed by a regional disciplinary committee, the case files are transmitted in a secure, electronic format to the regions. In addition, files on which the Supreme Court Advisory Committee is conducting a requested review are now transmitted securely in an electronic format.

Physical Facilities

The following building projects were completed in 2008 for the OCDC facility located at 3335 American Avenue, Jefferson City, Missouri:

- ADA access to the building's only meeting area;
- Additional parking space for staff and visitors;
- Add carpet over concrete, add dropped ceiling to cover exposed insulation, complete wiring, and paint walls in an unfinished area of the lower level to provide additional office space; and
- Repair or replace front door unit and front decorative columns that have rotted.

With regard to the building's long term viability, after careful consideration and with regard to the somewhat speculative nature of the projections, we believe that we will be able to remain in the existing OCDC facility without additional space during the next three years. It is likely, however, that we will be required to consider whether the existing facility will be adequate after 2012.

Regional Disciplinary Committee Training

The OCDC is an accredited MCLE provider. In 2008, we continued to host training sessions and MCLE presentations for the benefit of lawyer and non-lawyer volunteers and special representatives who participate in the disciplinary system at the Regional Disciplinary Committee level. The OCDC presented CLE presentations on current issues in the disciplinary system at luncheons honoring the Regional Disciplinary Committee members in Kansas City, St. Louis and Springfield.

Staff Training

In 2008, the OCDC attorney staff participated in training by attending conferences offered by The Missouri Bar, the National Organization of Bar Counsel and the American Bar Association – Center for Professional Responsibility. Paralegals in the office attended and presented training through the Missouri Paralegal Association and the nationwide Organization of Bar Investigators, an affiliate of the National Organization of Bar Counsel.

Supreme Court Rule 4

At the request of the Supreme Court, the Supreme Court Advisory Committee and the OCDC in 2008 studied and considered an amendment of Rule 4-1.15 of the Rules of Professional Conduct that would require financial institutions holding lawyer trust accounts to notify the OCDC in cases where the trust account is overdrawn.

During 2008, a Special Committee on Lawyer Advertising appointed by the Board of Governors of The Missouri Bar studied and recommended several proposed amendments to that portion of the Rules of Professional Conduct addressing lawyer advertising (i.e., Rules 4-7.1 through 4-7.5). The OCDC provided informational assistance to the Special Committee and commented regarding the proposed amendments to the advertising rules recommended by the Special Committee.

Supreme Court Rule 5

Effective January 1, 2008, the Supreme Court amended Rule 5.10 to provide for a lawyer-to-lawyer dispute resolution program. The program, administered by The Missouri Bar, offers lawyers arbitration of disputes that arise within the profession. The OCDC refers matters to the program as appropriate.

Effective January 1, 2008, the Supreme Court adopted the following amendments to Rules 5.14, 5.16, 5.19, 5.27 and 5.28:

- (a) Rule 5.14 added provisions for peremptory challenges to members of a disciplinary hearing panel, and for the appointment of special masters in lieu of disciplinary hearing panels in certain situations;
- (b) Rules 5.16 and 5.19 were reorganized to place all disciplinary proceedings prior to action by the Supreme Court in 5.16 and all disciplinary proceedings pending before the Supreme Court in 5.19. Decisions of disciplinary hearing panels now are deemed to be accepted by Informants and Respondents unless affirmatively rejected within 30 days of the date of the panel decision. In addition to court costs, specific discipline fees have been set: \$750 for Reprimand; \$1,000 for Suspension, and \$2,000 for disbarment;
- (c) Rule 5.27 now has an effective date of 15 days after a Supreme Court order for suspension or disbarment, unless the Court orders otherwise;
- (d) Rule 5.28 sets a reinstatement fee of \$500 for all disciplinary reinstatements.

SUMMARY OF DISCIPLINE ACTIONS

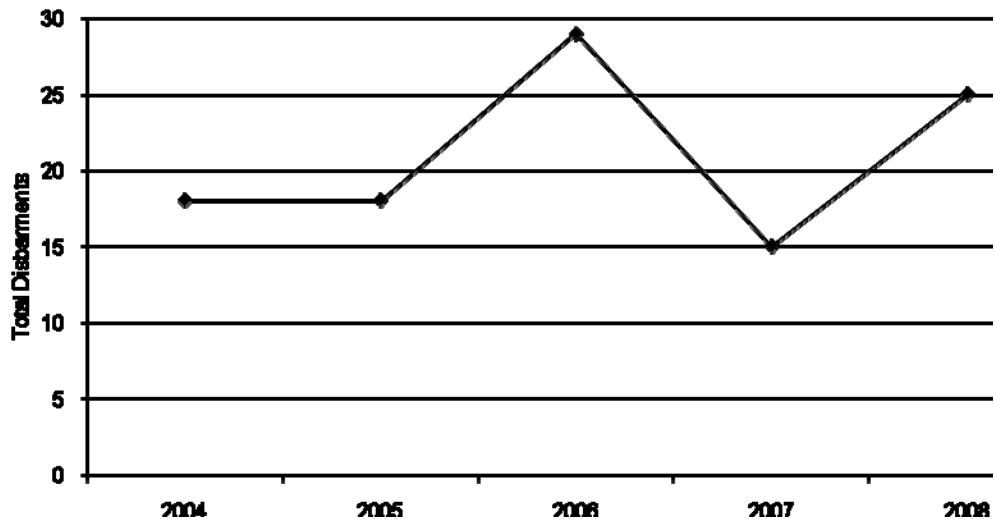
During 2008:

- **25** Twenty-five lawyers were disbarred;
- **21** Twenty-one lawyers were suspended; **seven** of those suspensions were stayed and attorneys placed on probation with conditions;
- **15** Fifteen lawyers received public reprimands;
- **107** One-hundred seven written admonitions were administered by the Regional Disciplinary Committees and the OCDC; and
- **2** Two additional matters were dismissed by the Court.

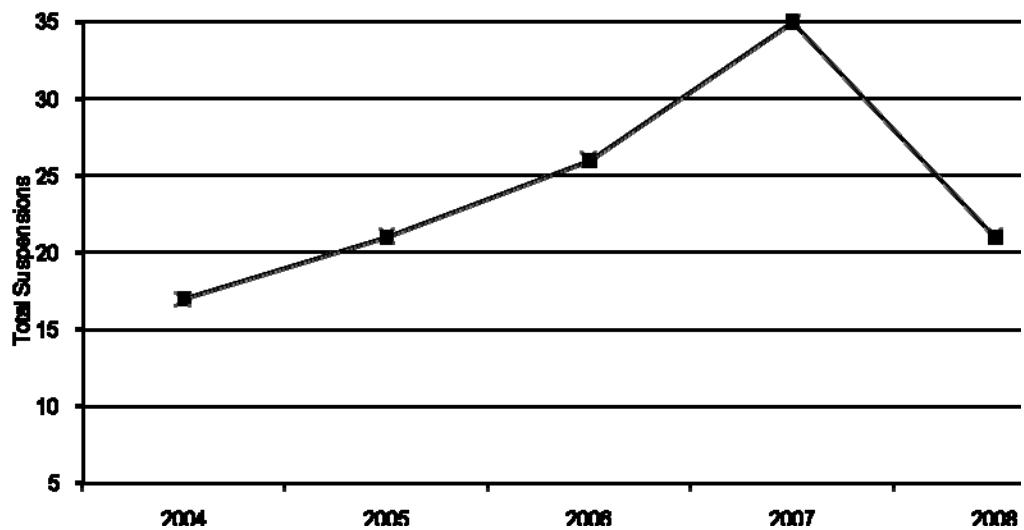
These figures include proceedings initiated by Regional Committees and the OCDC.

On occasion, other pending complaints against a lawyer are dismissed upon that lawyer's disbarment or suspension.

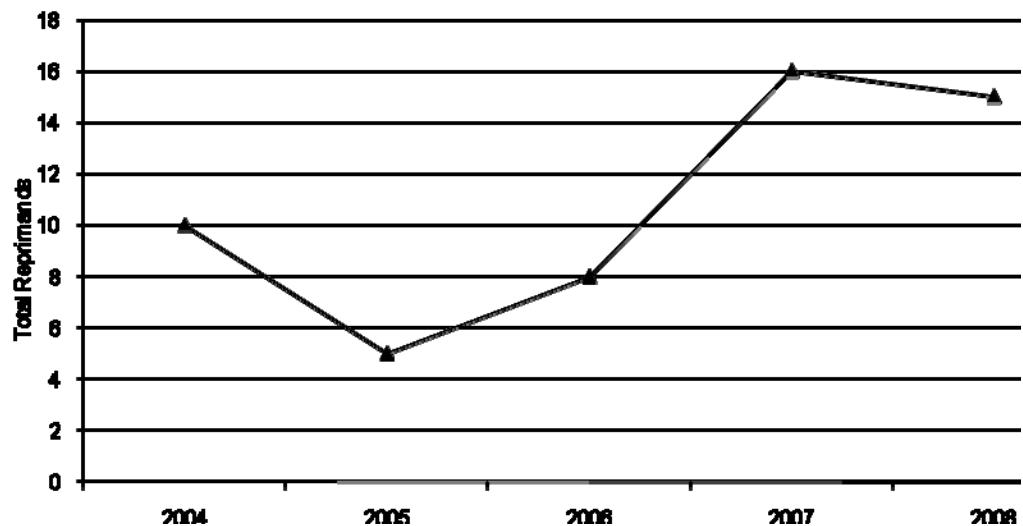
Disbarments



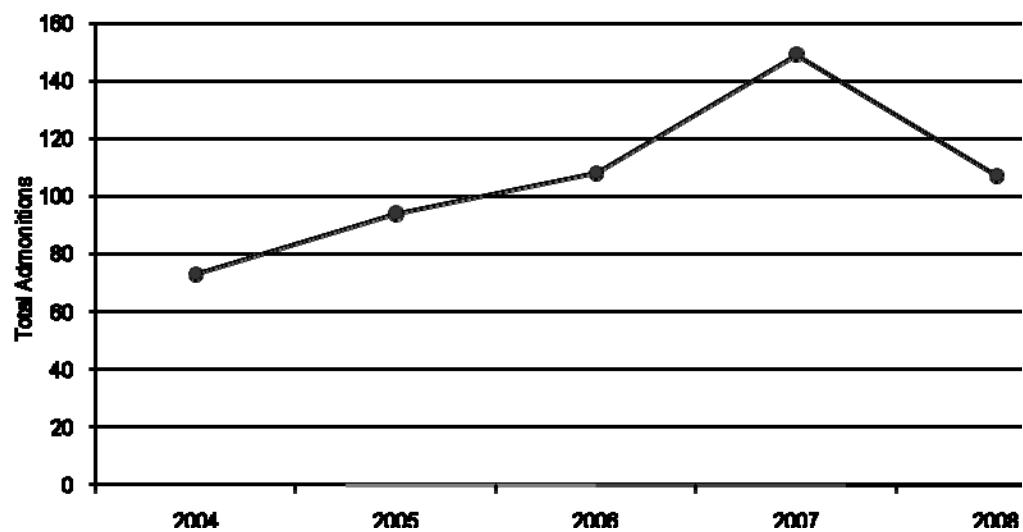
Suspensions



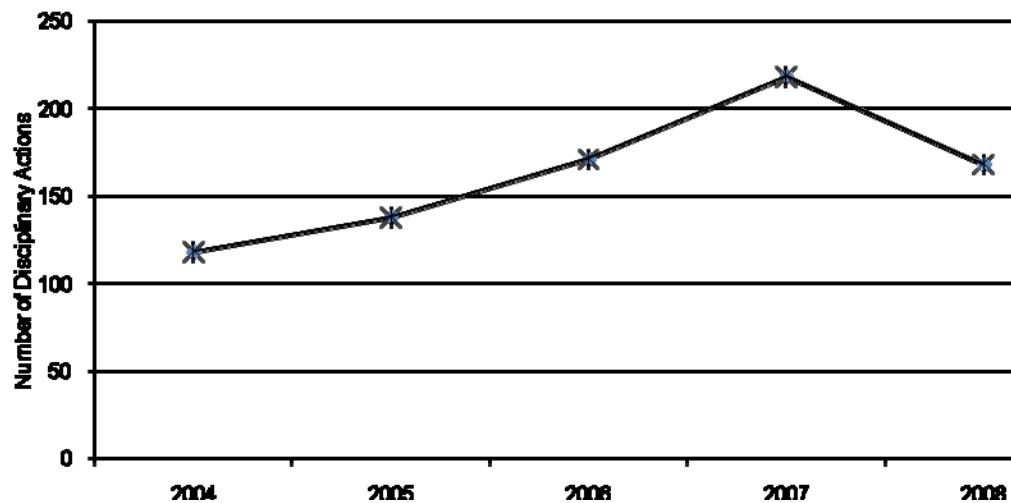
Reprimands



Admonitions



Total Disciplinary Actions



In 2008, there were a total of (168) disciplinary actions including admonitions and formal discipline matters.

The total number of complaints opened as formal investigations during 2008 was 757. The most common complaint areas are as follows:

NATURE OF VIOLATIONS *	NO.
Rule 4-1.4 (Communication)	434
Rule 4-1.3 (Diligence)	384
Rule 4-1.5 (Excessive Fees)	90
Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	84
Rule 4-1.16 (Improper Withdrawal)	59
Rule 4-1.7 (Conflicts)	58
Rule 4-1.15 (Safekeeping Property)	43
Rule 4-7.2 (Advertising)	29
Rule 4-1.1 (Competence)	27
Rule 4-5.5 (Unauthorized Practice)	24
Rule 4-8.4(b) (Criminal Activity)	11
Rule 4-5.3(b) (Supervisory Responsibility)	10
Rule 4-1.6 (Confidentiality)	10
Rule 4-4.1 (Truth to 3 rd Persons)	9
Rule 4-3.3 (Truth to Tribunal)	8
Rule 4-3.5(b) (Ex Parte Contacts)	2
Rule 4-3.4 (Obstruction/False Evidence)	1
Rule 4-3.8 (Prosecutorial Responsibility)	1

* Many complaints included more than one allegation.

The most prevalent practice areas which resulted in investigations are as follows:

AREA OF PRACTICE	NO.
Domestic	161
Criminal	114
Torts	107
Other	61
Estate/Probate	53
Bankruptcy/Receivership	42
Workers Compensation	38
Real Property	36
Traffic	25
Labor Law	23
Contracts	21
Administrative/Governmental	18
Litigation	11
Landlord/Tenant	9
Collections	7
Corporate Banking	7
Immigration/Naturalization	5
Guardianship	3
Commercial Law	2
Civil Rights	1
Consumer Law	1
Securities	1

Dated at the Office of Chief Disciplinary Counsel at Jefferson City, Missouri
this 11th day of August, 2009.

Respectfully Submitted,

ALAN D. PRATZEL
Chief Disciplinary Counsel

2008 LEGAL ETHICS COUNSEL ANNUAL REPORT

LEGAL ETHICS COUNSEL ROLE

Informal Advisory Opinions

Pursuant to Rule 5.30(c), the Legal Ethics Counsel issues nonbinding informal advisory opinions.

The Legal Ethics Counsel office provided informal advisory opinions in response to 1332 oral contacts. Some of the contacts involved multiple, separate questions and therefore multiple opinions. Opinions given in conjunction with informal contact at bar meetings and CLE programs are generally not included in this count. Opinions provided at the “Legal Ethics Counsel Booth” at the Solo and Small Firm Conference are included.

The Legal Ethics Counsel also provided 60 written informal advisory opinions. Some of these were summarized and published with the approval of the Advisory Committee.

CLE Presentations

The Legal Ethics Counsel prepared and gave 30 CLE presentations for various groups, including: The Missouri Bar, University of Missouri at Kansas City Law School, Missouri Office of Prosecution Services, KC National Employment Lawyers Association, American Academy of Adoption Attorneys, and the National Organization of Bar Counsel.

COUNSEL TO ADVISORY COMMITTEE ROLE

Rule 5.07(b) provides that the Legal Ethics Counsel shall serve as staff to the Advisory Committee.

Review Summaries

Pursuant to Rule 5.12, the Advisory Committee reviews investigation files if the OCDC or a Regional Disciplinary Committee finds no probable cause and the complainant requests review. The Legal Ethics Counsel office summarized and distributed 92 review files.

Hearings

The Legal Ethics Counsel office provided assistance with arrangements for hearings, as requested, to Disciplinary Hearing Officers.

The Legal Ethics Counsel began administering the hearing process to assist the chair of the advisory committee. The legal ethics counsel proposes a hearing panel, provides the file to the hearing panel once it has been approved by the chair, monitors the progress of the hearing, and assist the hearing officers with issues that arise during the course of the process. The legal ethics counsel began this role in April of 2008. Twenty-eight Informations were filed in 2008, after that time.

Budget

The Legal Ethics Counsel prepared a proposed budget for the Advisory Committee and LEC for 2009.

Meetings

The Legal Ethics Counsel office coordinated arrangements for four regular Advisory Committee meetings.

Other matters

The Legal Ethics Counsel maintained a website for the Advisory Committee and Legal Ethics Counsel. The website included a public area and a private area accessible only to Disciplinary Hearing Officers. The public area included articles and CLE materials on legal ethics issues and Supreme Court Rules 4 and 5, prepared by the Legal Ethics Counsel.

The Legal Ethics Counsel served on the membership and program committees and the current developments panel of the National Organization of Bar Counsel. In August 2008, the legal ethics counsel was elected Secretary of the NOBC.

The Legal Ethics Counsel met with representatives of the Bar's Special Committee on Advertising.

The Legal Ethics Counsel worked with the Advisory Committee's Overdraft Reporting Committee to develop proposals for mandatory reporting of overdrafts on attorney trust accounts.

The Legal Ethics Counsel worked with the Advisory Committee's Chronic Mental Disorders Task Force to develop approaches for dealing with attorneys with Chronic Mental Disorders in a manner that recognizes the potential for the attorney to appropriately manage the mental disorder while protecting the public and maintaining the integrity of the legal profession.

**MISSOURI BAR
COMPLAINT RESOLUTION PROGRAM
ACTIVITY REPORT**

	2008
Total Open Cases in 2008	44
New Cases referred from OCDC	39
2007 Cases carried over	5
Meetings Scheduled/Held	23
Agreements Reached*	9
Agreements Not Reached	6
Complainant Did Not Respond or Consent	3
Respondent Did Not Consent or Respond	1
Respondent Did Not Consent But Did Respond	2
Parties Resolved without Conference*	10
Complainant Withdrawn complaint	5
Pending Close	4
Cases Closed	32

Total Resolutions* 19

**MISSOURI BAR
COMPLAINT RESOLUTION PROGRAM**

NATURE OF COMPLAINT	NO.
Client Communication	34
Diligence	2
Client's Directive	1
Conflicts	1
Other	1

TYPE OF MATTER	NO.
Domestic	15
Litigation	5
Workers' Comp.	4
Landlord/Tenant	3
Bankruptcy	2
Estate/Probate	2
Other	2
Traffic	2
Criminal Law	1
Guardianship	1
Insurance	1
Personal Injury	1

**MISSOURI BAR
COMPLAINT RESOLUTION PROGRAM**

LOCATION OF ATTY.	NO.	LOCATION OF ATTY.	NO.
Bonne Terre	1	North Kansas City	1
Bridgeton	1	O'Fallon	1
Cabool	1	Olathe, KS	1
Clinton	1	Republic	1
Columbia	1	Salem	1
DeSoto	1	Springfield	2
Fenton	1	St. James	1
Independence	1	St. Louis	6
Jefferson City	1	St. Charles	1
Joplin	1	Steelville	1
Kansas City	4	University City	1
Lenexa, KS	1	Waynesville	1
Liberty	1	Webster Groves	1
Malden	1	West Plains	2
Nixa	1		